



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,468	12/26/2001	Rainer Kuth	2000P22926 US	2967
466	7590	12/01/2005		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER LESNIEWSKI, VICTOR D	
			ART UNIT 2152	PAPER NUMBER

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/025,468

Applicant(s)

KUTH, RAINER

Examiner

Victor Lesniewski

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

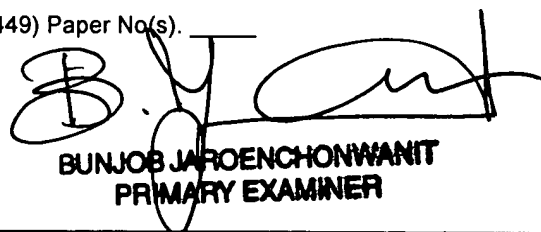
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☐ Other: _____.

VZ


BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments are not persuasive.

Concerning the applicant's remarks that the combination of Druckenmiller and Guck is based on hindsight because Druckenmiller teaches away from making information publicly accessible, it is maintained that the combination was not based on improper hindsight reasoning. The fact that Druckenmiller's system is focused on registering a user on a subscription list, does not necessarily imply that the information provided by the information distribution service be not publicly accessible. Instead, Druckenmiller is focused on the problem of spamming or the result of a user being signed up for a distribution list by a third party. See Druckenmiller, column 1, lines 54-59. The data provided by the distribution service need not be considered only privately or publicly accessible in order to effectuate Druckenmiller's solution.

Concerning the applicant's remarks that the combination of Druckenmiller and Guck does not teach the claimed ident code, it is noted that the applicant may have mischaracterized the rejection. From the remarks, it seems as though the applicant reads the data distributed by a distribution service in Druckenmiller as being aligned with the claimed information item when in fact the rejection is based on a reading of the claimed information item as being analogous to the subscription in Druckenmiller's disclosure. A reading of the previous line citations concerning claim 1, taking into consideration the subscription as the claimed information item, shows that the combination of Druckenmiller and Guck meets the limitations of the claim.

It is recommended that the applicant consider amending the claims to more clearly convey what the information item is and the usage of the information item. This may help in distinguishing the claims over the prior art of record since currently Druckenmiller's subscription satisfies the claim requirements of the information item.

Claims 1-14 remain rejected as presented in the final action dated 8/8/2005.